

State supplement will provide a detailed outline of actions necessary to complete the foreclosure.

[50 FR 23904, June 7, 1985, as amended at 50 FR 45782, Nov. 1, 1985; 51 FR 4138, Feb. 3, 1986; 51 FR 45433, Dec. 18, 1986; 53 FR 27827, July 25, 1988; 53 FR 35763, Sept. 14, 1988; 56 FR 6953, Feb. 21, 1991; 56 FR 15822, Apr. 18, 1991; 57 FR 18671, Apr. 30, 1992; 57 FR 31642, July 17, 1992; 57 FR 60085, Dec. 18, 1992; 58 FR 38927, July 21, 1993; 58 FR 58648, Nov. 3, 1993; 58 FR 68725, Dec. 29, 1993; 60 FR 55147, Oct. 27, 1995; 62 FR 44396, Aug. 21, 1997]

§§ 1955.16—1955.17 [Reserved]

§ 1955.18 Actions required after acquisition of property.

The approval official may employ the services of local designated attorneys, of a case by case basis, to process all legal procedures necessary to clear the title of foreclosure properties. Such attorneys shall be compensated at not more than their usual and customary charges for such work. Contracting for such attorneys shall be accomplished pursuant to the Federal acquisition regulations and related procurement regulations and guidance.

(a)–(d) [Reserved]

(e) *Credit to the borrower's account or foreclosure judgment account.*

(1) *For SFH accounts.* When FmHA or its successor agency under Public Law 103-354 acquired the property, the account will be satisfied unless:

(i) In a voluntary conveyance case where the debt exceeds the market value of the property and the borrower is *not* released from liability, in which case the account credit will be the market value (less outstanding liens if any); or

(ii) In a foreclosure where the bid is less than the account balance and a deficiency judgment will be sought for the difference, in which case the account credit will be the amount of FmHA or its successor agency under Public Law 103-354's bid.

(2) *For all types of accounts other than SFH.* When FmHA or its successor agency under Public Law 103-354 acquired the property, the account credit will be as follows:

(i) In a voluntary conveyance case:

(A) Where the market value of the property equals or exceeds the debt or where the borrower is released from li-

ability for any difference, the account will be satisfied.

(B) Where the debt exceeds the market value of the property and the borrower is *not* released from liability, the account credit will be the market value (less outstanding liens, if any).

(ii) In a foreclosure, the account credit will be the amount of FmHA or its successor agency under Public Law 103-354's bid *except* when incremental bidding as provided for in § 1955.15(f)(7)(ii) of this subpart was used, in which case the account credit will be the maximum bid that was authorized by the State Director.

(3) *For all types of accounts when FmHA or its successor agency under Public Law 103-354 did not acquire the property.* The sale proceeds will be handled in accordance with applicable State laws with the advice and assistance of OGC, including remittance of funds, application of the borrower's account credit, and disbursement of any funds in excess of the amount due FmHA or its successor agency under Public Law 103-354.

(4) *In cases where FmHA or its successor agency under Public Law 103-354 acquired security property by means other than voluntary conveyance or foreclosure.* In these cases, such as conveyance by a bankruptcy trustee or by Court Order, the account credit will be as follows:

(i) If the market value of the acquired property equals or exceeds the debt, the account will be satisfied.

(ii) If the debt exceeds the market value of the acquired property, the account credit will be the market value.

(f)–(l)

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§ 1955.19 [Reserved]

§ 1955.20 Acquisition of chattel property.

Every effort will be made to avoid acquiring chattel property by having the borrower or FmHA or its successor agency under Public Law 103-354 liquidate the property according to Subpart A of Part 1962 of this chapter and

apply the proceeds to the borrower's account(s). Methods of acquisition authorized are:

(a) *Purchase at the following types of sale:* (1) Execution sale conducted by the U.S. Marshal, sheriff or other party acting under Court order to satisfy judgment liens.

(2) FmHA or its successor agency under Public Law 103-354 foreclosure sale conducted by the U.S. Marshal or sheriff in States where a State Supplement provides for sales to be conducted by them.

(3) Sale by trustee in bankruptcy.

(4) Public sale by prior lienholder.

(5) Public sale conducted under the terms of Form FmHA or its successor agency under Public Law 103-354 455-4, "Agreement for Voluntary Liquidation of Chattel Security," the power of sale in security agreements or crop and chattel mortgage, or similar instrument, if authorized by State Supplement.

(b) *Voluntary conveyance.* Voluntary conveyance of chattels will be accepted only when the borrower can convey ownership free of other liens *and* the borrower can be released from liability under the conditions set forth in § 1955.10(f)(2) of this subpart. Payment of other lienholders' debts by FmHA or its successor agency under Public Law 103-354 in order to accept voluntary conveyance of chattels is not authorized. Before a voluntary conveyance from a Farmer Program loan borrower can be accepted, the borrower must be sent Exhibit A with Attachments 1 and 2 of Subpart S of Part 1951 of this chapter.

(1) *Offer.* The borrower's offer of voluntary conveyance will be made on Form FmHA or its successor agency under Public Law 103-354 1955-1. If it is determined the conveyance offer can be accepted, the borrower will execute a bill of sale itemizing each item of chattel property being conveyed and will provide titles to vehicles or other equipment, where applicable.

(2) *Acceptance of offer release from liability.* Before accepting an offer to convey chattels to FmHA or its successor agency under Public Law 103-354, the concurrence of the State Director must be obtained. When chattel security is voluntarily conveyed to the

Government and the borrower and cosigner(s), if any, are to be released from liability, the servicing official will stamp the note(s) "Satisfied by Surrender of Security and Borrower Released from Liability." When the Agency debt less the market value and prior liens is \$1 million or more (including principal, interest and other charges), release of liability must be approved by the Administrator or designee; otherwise, the State Director must approve the release of liability. All cases requiring a release of liability will be submitted in accordance with Exhibit A of Subpart B of Part 1956 of this chapter (available in any FmHA or its successor agency under Public Law 103-354 office). Form FmHA or its successor agency under Public Law 103-354 1955-1 will be executed by the servicing official showing acceptance by the Government, and the satisfied note(s) and a copy of Form FmHA or its successor agency under Public Law 103-354 1955-1 will be furnished to the borrower.

(3) *Release of lien(s).* When an offer has been accepted as outlined in paragraph (b)(2) of this section, the servicing official will release any liens of record which secured the satisfied indebtedness.

(4) *Rejection of offer.* If it is determined an offer of voluntary conveyance will not be accepted, the servicing official will indicate on Form FmHA or its successor agency under Public Law 103-354 1955-1 that the offer is rejected, execute the form, and furnish a copy to the borrower.

(c) *Attending sales.* The servicing official will:

(1) Attend all sales described in paragraph (a)(5) of this section unless an exception is authorized by the State Director because of physical danger to the FmHA or its successor agency under Public Law 103-354 employee or adverse publicity would be likely.

(2) Attend public sales by prior lienholders when the market value of the chattel property is significantly more than the amount of the prior lien(s).

(3) Obtain the advice of the State Director on attending sales described in paragraphs (a) (1), (2), and (3) of this section.

(d) *Appraising chattel property.* Prior to the sale, the servicing official will appraise chattel property using Form FmHA or its successor agency under Public Law 103-354 440-21, "Appraisal of Chattel Property." If a qualified appraiser is not available to appraise chattel property, the State Director may obtain an appraisal from a qualified source outside FmHA or its successor agency under Public Law 103-354 by contract in accordance with FmHA or its successor agency under Public Law 103-354 Instruction 2024-A (available in any FmHA or its successor agency under Public Law 103-354 office).

(e) *Abandonment of security interest.* The State Director may authorize abandonment of the Government's security interest when chattel property, considering costs of moving or rehabilitation, has no market value and obtaining title would not be in the best interest of the Government.

(f) *Bidding at sale.* (1) The servicing official is authorized to bid at sales described in paragraph (a) of this section. Ordinarily, only one bid will be made on items of chattel security unless the State Director authorizes incremental bidding. Bids will be made only when no other party bids or when it appears bidding will stop and the property will be sold for less than the amount of the Government's authorized bid. When the State Director determines attendance of an FmHA or its successor agency under Public Law 103-354 employee might pose physical danger, a written bid may be submitted to the party holding the sale. The bid(s) will be the lesser of:

(i) The market value of the item(s) less the estimated costs involved in the acquisition, care, and sale of the item(s) of security; or

(ii) The unpaid balance of the borrower's secured FmHA or its successor agency under Public Law 103-354 debt plus prior liens, if any.

(2) Bids will not be made in the following situations unless authorized by the State Director:

(i) When chattel property under prior lien has a market value which is not significantly more than the amount owed the prior lienholder. If FmHA or its successor agency under Public Law 103-354 holds a junior lien on several

items of chattel property, advice should be obtained from the State Director on bidding.

(ii) After sufficient chattel property has been bid in by FmHA or its successor agency under Public Law 103-354 to satisfy the FmHA or its successor agency under Public Law 103-354 debt; prior liens, and cost of the sale.

(iii) When the sale is being conducted by a lienholder junior to FmHA or its successor agency under Public Law 103-354.

(iv) At a private sale.

(v) When the sale is being conducted under the terms of Form FmHA or its successor agency under Public Law 103-354 455-3, "Agreement for Sale by Borrower (Chattels and/or Real Estate)".

(g) *Payment of costs.* Costs to be paid by FmHA or its successor agency under Public Law 103-354 in connection with acquisition of chattel property will be paid as outlined in §1955.5(d) of this subpart as recoverable costs.

NOTE: Payment of other lienholders' debts in connection with voluntary conveyance of chattels is not authorized.

(h) *Reporting acquisition of chattel property.* Acquisition of chattel property will be reported by use of Form FmHA or its successor agency under Public Law 103-354 1955-3 prepared and distributed in accordance with the FMI.

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§ 1955.21 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected or the immediate health and/or safety of tenants or the community are endangered if there is no adverse effect on the Government's interest. The Administrator will exercise this authority upon the request of